

## LACTATION ACCOMMODATION

**BP 4033(a)**

The Governing Board recognizes the immediate and long-term health benefits of breastfeeding and desires to provide a supportive environment for any district employee to express milk for an infant child upon returning to work following the birth of the child. The Board prohibits discrimination, harassment, and/or retaliation against any district employee for seeking an accommodation to express breast milk for an infant child while at work.

*(cf. 4030 - Nondiscrimination in Employment)*

An employee shall notify the employee's supervisor or other appropriate personnel in advance of the intent to request an accommodation. The supervisor shall respond to the request and shall work with the employee to make arrangements. If needed, the supervisor shall address scheduling in order to ensure that the employee's essential job duties are covered during the break time.

Lactation accommodations shall be granted unless limited circumstances exist as specified in law. *(Labor Code 1031, 1032; 29 USC 207)*

Before a determination is made to deny lactation accommodations to an employee, the employee's supervisor shall consult with the Superintendent or designee. When lactation accommodations are denied, the Superintendent or designee shall document the options that were considered and the reasons for denying the accommodations.

The Superintendent or designee shall provide a written response to any employee who was denied the accommodation(s). *(Labor Code 1034)*

The district shall include this policy in its employee handbook or in any set of policies that the district makes available to employees. In addition, the Superintendent or designee shall distribute the policy to new employees upon hire and when an employee makes an inquiry about or requests parental leave. *(Labor Code 1034)*

*(cf. 4112.9/4212.9/4312.9 - Employee Notifications)*

### Break Time and Location Requirements

The district shall provide a reasonable amount of break time to accommodate an employee each time the employee has a need to express breast milk for an infant child. *(Labor Code 1030)*

To the extent possible, any break time granted for lactation accommodation shall run concurrently with the break time already provided to the employee. Any additional break time used by a non-exempt employee for this purpose shall be unpaid. *(Labor Code 1030; 29 USC 207)*

The employee shall be provided the use of a private room or location, other than a bathroom, which may be the employee's work area or another location that is in close proximity to the employee's work area. The room or location provided shall meet the following requirements: *(Labor Code 1031; 29 USC 207)*

1. Is shielded from view and free from intrusion while the employee is expressing milk
2. Is safe, clean, and free of hazardous materials, as defined in Labor Code 6382
3. Contains a place to sit and a surface to place a breast pump and personal items
4. Has access to electricity or alternative devices, including, but not limited to, extension cords or charging stations, needed to operate an electric or battery-powered breast pump
5. Has access to a sink with running water and a refrigerator or, if a refrigerator cannot be provided, another cooling device suitable for storing milk in close proximity to the employee's workspace

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BP 4033(b)

If a multipurpose room is used for lactation, among other uses, the use of the room for lactation shall take precedence over other uses for the time it is in use for lactation purposes. (*Labor Code 1031*)

### Dispute Resolution

An employee may file a complaint with the Labor Commissioner at the California Department of Industrial Relations for any alleged violation of Labor Code 1030-1034. (*Labor Code 1034*)  
(*cf. 4144/4244/4344 - Complaints*)

### Legal Reference:

#### **EDUCATION CODE**

200-262.4 *Educational equity; prohibition of discrimination on the basis of sex*

#### **CIVIL CODE**

43.3 *Right of mothers to breastfeed in any public or private location*

#### **GOVERNMENT CODE**

12926 *Definition of sex; breastfeeding*

12940 *Unlawful discriminatory employment practices*

12945 *Unlawful discrimination based on pregnancy, childbirth, or related medical conditions*

#### **LABOR CODE**

1030-1034 *Lactation accommodation*

6382 *Procedure for listing hazardous substances*

#### **CODE OF REGULATIONS, TITLE 2**

11035-11051 *Unlawful sex discrimination; pregnancy and related medical conditions*

#### **UNITED STATES CODE, TITLE 29**

207 *Fair Labor Standards Act; lactation accommodation*

#### **Management Resources:**

CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS PUBLICATIONS

*Rest Periods/Lactation Accommodation, Frequently Asked Questions*

CALIFORNIA DEPARTMENT OF PUBLIC HEALTH PUBLICATIONS

*Lactation Accommodation for Employers*

CENTERS FOR DISEASE CONTROL AND PREVENTION PUBLICATIONS

*Lactation Support Program Toolkit*

FEDERAL REGISTER

*Reasonable Break Time for Nursing Mothers, December 21, 2010, Vol. 75, No. 244, pages 80073-80079*

OFFICE OF THE SURGEON GENERAL PUBLICATIONS

*The Surgeon General's Call to Action to Support Breastfeeding, 2011*

HEALTH RESOURCES AND SERVICES ADMINISTRATION PUBLICATIONS

*The Business Case for Breastfeeding: Steps for Creating a Breastfeeding Friendly Worksite, Toolkit, 2008*

U.S. DEPARTMENT OF LABOR, WAGE AND HOUR DIVISION, PUBLICATIONS

*Frequently Asked Questions- Break Time for Nursing Mothers*

*Fact Sheet #73: Break Time for Nursing Mothers under the FLSA, rev. April 2018*

WEB SITES

California Department of Industrial Relations, Division of Labor and Standards Enforcement:

<http://www.dir.ca.gov/dlse> California Department of Public Health: <http://www.cdph.ca.gov>

California Women, Infants and Children Program: <http://www.wicworks.ca.gov>

Centers for Disease Control and Prevention: <http://www.cdc.gov>

Health Resources and Services Administration: <http://www.hrsa.gov>

Office of the Surgeon General: <http://www.surgeongeneral.gov>

U.S. Department of Labor, Wage and Hour Division, *Break Time for Nursing Mothers*:  
<http://www.dol.gov/whd/nursingmothers>

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